

Notice of Allowability

Application No.

10/524,080

Examiner

Michael P. Barker

Applicant(s)

BRUNNER ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6 Sept. 07, Amendment After Non-Fin. Rej..
2. ☒ The allowed claim(s) is/are 1-15, 17, 20 and 21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Art Unit: 1626

DETAILED ACTION

Applicant amended canceled **Claims 16, 18, and 19, Claims 17 and 20**, and added **Claim 21**. Accordingly, **Claims 1-15, 17, 20, and 21** are pending.

Response to Remarks

Applicant's amendments to cancellation of **Claims 16, 18, and 19, Claims 17 and 20**, and addition of **Claim 21** are acknowledged. Applicant's amendment to Claim 18 overcomes the rejection put forth under 35 U.S.C. 112 and 101. Applicant's amendment to Claim 17 overcomes the objection previously put forth. Accordingly, all rejections and objections are withdrawn.

Examiner's Amendment

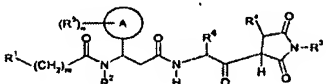
An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 2: Delete the words, "formula (I)", and insert the words, "claim 1", therefor.

Reasons for Allowance

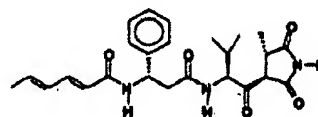
Applicant's invention is drawn to a genus of compounds, salts, solvates, and

pharmaceutical compositions of formula (I), , as well as a method of

Art Unit: 1626

using these compounds, salts, solvates, and pharmaceutical compositions for controlling bacterial infection. The closest prior art is Needham, et al. "Andrimid and Moiramides A-C, Metabolites Produced in Culture by a Marine Isolate of the Bacterium *Pseudomonas fluorescens*: Structure

Elucidation and Biosynthesis", J. Org. Chem. 1994, 59, pp. 2058-63:



There is no prior art which renders obvious nor anticipates Applicant's invention. Therefore,

Claims 1-15, 17, 20, and 21 are ALLOWED.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Barker whose telephone number is (571) 272-4341. The examiner can normally be reached on Monday-Friday 8:00 AM- 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699. The unofficial fax phone for this group are (571) 273-8300.

Michael P. Barker
Patent Examiner, AU 1626
Technology Center 1600

REBECCA ANDERSON
PRIMARY EXAMINER

(for) Joseph McKane
Supervisory Patent Examiner, AU 1626
Technology Center 1600